

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**W.E. AUBUCHON CO., INC., AUBUCHON
DISTRIBUTION, INC., W.E. AUBUCHON
CO. INC. EMPLOYEE MEDICAL
BENEFIT PLAN, AND AUBUCHON
DISTRIBUTION, INC. EMPLOYEE
MEDICAL BENEFIT PLAN**

PLAINTIFFS,

V.

BENEFIRST, LLC,

DEFENDANT.

CIVIL ACTION No. 05-40159 FDS

AFFIDAVIT OF CHARLES T. DOBENS

I, Charles T. Dobens, hereby state, under oath, as follows:

1. I was the sole Managing Member of BeneFirst, LLC, and am intimately familiar with the day-to-day operations of BeneFirst's claims processing operations over the past several years.
2. This affidavit is intended to give the Court additional information regarding BeneFirst's processing of claims received on behalf of the W.E. Aubuchon, Inc. Employee Medical Benefit Plan ("the Aubuchon Plan") as well as BeneFirst's other clients, and what happens to those claims once they are processed.
3. To begin, it should be noted that there are not, and never have been, "claim files" generated in connection with any of BeneFirst's clients, in that no file was ever assembled that could be considered an aggregate of claims on a per-person or per-group basis.
4. Claims would typically arrive at BeneFirst from either medical professionals (on forms known as HCFAs), hospitals (on forms known as UBs) or dentists (on dental claim

forms) on a daily basis. Upon receipt, the claims would be sorted into client groups for processing. A claims examiner would then take a batch of claims for a group they were responsible for, hand write a claim number for each claim in the batch across the top of the form, and then proceed to process the claim and set it up for payment.

5. Once processed, the physical claim forms were retained for 60 days, organized by the batches in which they were processed. After 60 days, the batch of claim forms was scanned and stored as electronic images, and the claim forms themselves were then shredded.
6. The scanned claim forms are stored in groups according to their process date and processor. Accordingly, if an image of a claim form needed to be retrieved, the following information would be needed: claim number, processor, and date of processing. With this information, a physical claim could be located in fairly short order, a matter of 3-4 minutes.
7. If only a claim number and date of processing are available, then searching for an individual claim would require a review of all of the batches of claims processed by claims examiners on any particular day. A search of this kind would take on average between 7 and 10 minutes per claim, because of the number of claims examiners that might have processed claims.
8. On any given day, three or four claims examiners would process Aubuchon claims. At various times from July 2001 to December 2004, BeneFirst employed the following claims examiners, any of whom could have processed claims from Aubuchon, as well as other groups:

Billie Jean Melisse

Paul Gatanti

Carrie Reddie

Robin Bahnemann

Denise Moody

Stephanie Juzokonis

Donna Ryan

Cheryl MacLoed

Kim Lobello

Coreen McMasters

Jessica Giovanello

Cheryl Yahoub

Lisa Driscoll

Steve DeVito

9. It was very common for one claims examiner to process claims from multiple groups in a single day. Accordingly, retrieving a given claims examiner's claims from any single day would likely produce claims processed from multiple groups, and not necessarily from Aubuchon.
10. There is no index of the images *per se*. However, the images that are stored on BeneFirst's server are grouped according to the year of processing, then the claims examiner, then the month of processing, and finally the processing date.
11. Accordingly, to find the batch of images in which a particular claim form could be found, one would need to know the date of processing and the name of the claims examiner processing it. The typical batch of images contains around 85 claims. The images themselves are stored in image files with a .cpy suffix, which is viewed with an application called eCopy.
12. The physical location of the server that maintains the images as organized above is in Pembroke, Massachusetts.
13. The decision to store the images in this manner was one that was made by Paul Gatanti, BeneFirst's former claims manager, and myself. This setup was designed to locate, within a reasonable amount of time, a particular claim if it became necessary to locate the associated image. However, the image itself was generally not required in the normal course of BeneFirst's claims processing operations. The organization of the image files was not designed for the wholesale retrieval of claim images on a group-by-group basis.
14. In addition to the images scanned in-house that are stored on BeneFirst's server, I have also located some CD-R's that contain scans of claim images that were scanned by an

outside vendor at certain times in 2001, 2002, and 2003. The claims were scanned by an outside service and then returned to BeneFirst on CD-R for further processing. The images scanned by the outside vendor were batched in a fashion similar to the in-house scanning performed at BeneFirst, with 1 or 2 CD-R's pertaining to a month's worth of claims. As with the images scanned in-house, a single batch of images would contain claims from multiple groups. Approximately 10 months of claim images from 2001 and 2002 are stored on a database that has indexed the images. However, this database also contains information that applies to groups other than Aubuchon.

15. During the 3.5 years that are at issue in this litigation, BeneFirst administered as many as 48 plans. While it is difficult to estimate the sheer number of claims processed by BeneFirst during that time, a reasonable estimate is somewhere between 550,000 to 600,000 claims.
16. By reviewing the various reports already produced to the Plaintiffs in this action, and in particular the reports known as "Individual Payment Reports" (also known as "rips"), BeneFirst has determined that there were approximately 34,112 claims submitted and processed under the Aubuchon plan.
17. The reports presently available to BeneFirst indicate, on a claim-by-claim basis, only the process date, but not the identity of the claims examiner. Accordingly, a conservative estimate of the average time it would take to retrieve each claim is 7 minutes, which amounts to 238,784 minutes, or 3979.73 hours to retrieve the image of every Aubuchon claim.¹
18. BeneFirst's claims examiners were paid \$18/hour, so it would cost around \$71,635 to retrieve this information. BeneFirst, however, no longer has any full time staff, and as

¹For claims stored on CD-R and accessible by the database provided to Aubuchon by the outside vendor, the time to retrieve the actual image would be somewhat less. However, the database covers only 10 of the 42 months that BeneFirst was the administrator for Aubuchon.

such to conduct this search would require the hiring of temporary help at a cost per hour that would probably approach \$80,000.

19. It would take one person looking for claims at 37.5 hours per week 106 weeks to do this work, which is more than 2 years. Two people working full time could accomplish this task in about a year, while five people working full time could retrieve all of the Aubuchon images in about 5 months.
20. Because the image batch files contain images from groups other than Aubuchon, BeneFirst cannot simply turn over image files on a wholesale basis without violating privacy restrictions pertaining to medical records.

ELECTRONICALLY SIGNED UNDER THE PENALTIES OF PERJURY THIS 18TH DAY OF SEPTEMBER 2006.

Dated: September 18, 2006

/s/ Charles T. Dobens

Charles T. Dobens
BeneFirst, LLC

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